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Return Date & Time:
OCTOBER 12, 2018 9:30 AM

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X Chapter 13 Case No: 117-43078-NHL
IN RE:

NOTICE OF MOTION

BEGUM S NASSA,
Debtor.

-----X

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Nancy Hershey Lord, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York, Courtroom 3577 on OCTOBER 12, 2018 at 9:30 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. Section 1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than seven (7) business days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York
September 19, 2018

/s/ Marianne DeRosa
MARIANNE DeROSA, TRUSTEE
125 JERICHO TPKE, SUITE 105
JERICHO, NEW YORK 11753
(516) 622-1340

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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OCTOBER 12, 2018
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IN RE:

Chapter 13 117-43078-NHL

BEGUM S NASSA,

APPLICATION

Debtor.

-----X

TO THE HONORABLE NANCY HERSHEY LORD, U.S. BANKRUPTCY JUDGE:

Marianne DeRosa, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on June 13, 2017, and, thereafter, Marianne DeRosa was duly appointed and qualified as Trustee.

2. The Debtor's proposed Chapter 13 Plan, (hereinafter "The Plan"), dated and filed with the Court on June 15, 2017, and reflected in the Court's docket as number 9 provides for a monthly Plan payment of \$4,120.00 per month for a period of 60 months. Additionally, The Plan provides for full repayment to all filed secured, priority and general unsecured proofs of claim.

3. The Trustee objects to the confirmation of the Plan because the Debtor's proposed Plan payment is insufficient to pay secured claims in full as required by 11 U.S.C. §1325(a)(5) and the Debtor's supporting budget, Schedules I and J, does not indicate an ability to increase the plan payments.

4. Furthermore, the Debtor has failed to:

- a. provide the Trustee with a copy of an affidavit by the Debtor stating the Debtor has paid all amounts that are required to be paid under a domestic support obligation or that the Debtor has no domestic support obligations as required by E.D.N.Y. LBR 2003-1(b)(ii)(A) and (B);
- b. provide the Trustee with a copy of affidavit from the Debtor stating whether the Debtor has filed all applicable federal, state and local tax returns under the Bankruptcy Code Section 1308 as required by E.D.N.Y. LBR 2003-1(b)(iii);
- c. file the original affidavits with the Court as required under subdivisions (b)(ii) and (iii) as required by E.D.N.Y. LBR 2003-1(c).
- d. comply with 11 U.S.C. §1325(a)(6) in that the Debtor has not submitted timely Chapter 13 plan payments to the Trustee, and is \$4,120.00 in arrears through and including September 2018.

5. The Plan cannot be confirmed and as a result a delay has occurred that is prejudicial to the rights of creditors. The case must be dismissed under 11 U.S.C. § 1307(c)(1) and (c)(5).

6. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order denying confirmation and dismissing this Chapter 13 case and such other and further relief as may seem just and proper.

Dated: Jericho, New York
September 19, 2018

/s/ Marianne DeRosa
Marianne DeRosa, Trustee

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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Chapter 13 Case No: 117-43078-NHL

IN RE:

BEGUM S NASSA,

CERTIFICATE OF SERVICE
BY MAIL

Debtor.

-----X

This is to certify that I, DANI M. BOYER, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

BEGUM S NASSA
58-64 43rd AVENUE, 1st FLR
WOODSIDE, NY 11377

AMY BERKOWITZ-ORTIZ, ESQ.
1225 FRANKLIN AVENUE, STE 325
GARDEN CITY, NY 11530

WELLS FARGO BANK, NA
C/O GROSS POLOWY ORLANS, LLC
1775 WEHRLE DRIVE, STE 100
WILLIAMSVILLE, NY 14221

This September 19, 2018

/s/DANI M. BOYER
DANI M. BOYER, Paralegal
Office of the Standing Chapter 13 Trustee
Marianne DeRosa, Esq.
125 Jericho Tpke, Suite 105
Jericho, New York 11753
(516) 622-1340

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IN RE:

BEGUM S NASSA,

Debtor.

NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE

MARIANNE DeROSA, TRUSTEE
125 JERICHO TPKE, SUITE 105
JERICHO, NEW YORK 11753
(516) 622-1340
